

Juridical Study of the Supervisory Authority over the Implementation of Nagari Customs and Culture by Traditional Nagari Communities in West Sumatra Province

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Abstract

The recognition and supervision of nagari customs in West Sumatra reflect Indonesia's commitment to legal pluralism and the protection of customary law communities. This study aims to analyze the legal consequences of the authority held by the Kerapatan Adat Nagari (KAN) following the enactment of West Sumatra Provincial Regulation Number 7 of 2018 concerning Nagari, and to examine the legal implications of its supervisory role over the implementation of nagari customs and culture. Employing a normative legal research method, this study uses secondary data comprising primary and secondary legal materials, which were analyzed qualitatively. The findings show that the regulation formally recognizes KAN as one of the key nagari institutions alongside the Nagari Government and the Nagari Customary Court. The supervisory authority of these institutions, particularly over the practice of customs, affirms the integration of customary law within the regional governance framework. Furthermore, Article 17 delegates overarching guidance and supervision to the Governor, reinforcing state oversight in a customary law context. These findings highlight the evolving position of customary law within the state legal system and the regional legal framework of West Sumatra

1. Introduction

Every society throughout the world has a legal system within its territory, and no nation exists without a national legal system. A nation's law is fundamentally a reflection of its culture, as it represents the collective consciousness and legal awareness of its people (Alimbekova Mira A. et al., 2019).

In Indonesia, this cultural embodiment is strongly reflected in customary law, which serves as the living expression of the nation's soul passed down through generations. Although the specific customs may vary between regions, their foundational values remain rooted in a shared sense of Indonesianness (Atmaja et al., 2020).

Article 18B paragraph (2) of the Amendment to the 1945 Constitution states that "the State recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law." This provision implies that only customary laws which are still clearly practiced and identifiable in terms of their substance and community scope are recognized (Febrianty et al., 2023). Furthermore, it reflects the constitutional preference for written law over unwritten law, indicating that the recognition of living customary laws must be formally established through statutory regulations (Adhari & Herning SB, 2020).

Article 28 I paragraph (3) of the 1945 Constitution emphasizes that "Cultural identity and the rights of traditional communities are respected in line with developments over time and civilization." In principle, Article 18 B paragraph (2) and Article 28 I paragraph (3) contain differences where Article 18 B paragraph (2) is included in Chapter VI concerning Regional Government while 28 I paragraph (3) is in Chapter XA concerning Human Rights. It is clearer that Article 18 B paragraph (2) respects the cultural identity and rights of traditional communities (indigenous people) (Yulianti et al., 2021). Strengthened by the provisions of Law Number 39 of 1999 concerning Human Rights in Article 6 paragraph (1) and paragraph 2 which states that:

1. In the context of upholding human rights, differences and needs in society. The law must be observed and protected by law, society and government.
2. The cultural identity of customary law communities, including protected customary land rights, is harmonious with the development of time (Ahmad, 2020).

Law Number 59 of 2024 concerning the National Long Term Development Plan (RPJPN) for 2025–2045 outlines a significant agenda for strengthening the cultural traditions of communities in Indonesia, particularly Indigenous Communities, through the mental revolution program. This program emphasizes building a progressive culture while preserving traditional values by reinforcing personal character, national identity, and the welfare of the Indonesian people, with the broader aim of influencing global cultural development (Margono et al., 2025). In this context, customs are understood as a set of values, norms, rules, and social beliefs that evolve alongside society and continue to be internalized and upheld by communities. According to Soekanto, customs possess a strong influence and binding force within society, which is both dependent on and supportive of the social order (Prasetyo & Ja'a, 2019). Similarly, Raden Soepomo views customs as synonymous with customary law—

unwritten rules that function as legal conventions within the state and govern both urban and rural life (Bakker, 2023).

According to the theory of Reception in Complexu, if a community adheres to a particular religion, then its customary law is considered to be aligned with that religion, and any deviations are seen as exceptions. In line with this, West Sumatra enacted Regional Regulation Number 7 of 2018 concerning Nagari, based on several considerations: first, Nagari as a customary law community meets the criteria to function as a local government unit under Law Number 6 of 2014 on Villages; second, Article 109 of that law authorizes provincial governments to issue regulations guiding regencies/cities in structuring Nagari governance, including institutional arrangements and official appointments; and third, the previous regulation—Regional Regulation Number 2 of 2007—is no longer aligned with the current goal of strengthening Nagari governance based on customary law (Valentina et al., 2019).

Kerapatan Adat Nagari (KAN) is the highest representative institution for traditional deliberation and consensus that has existed and been inherited from generation to generation throughout the customs of the nagari community in West Sumatra. KAN is tasked with being the guardian and preserver of Minangkabau customs and culture. The scope regulated in West Sumatra Provincial Regulation Number 7 of 2018 concerning Nagari includes the institutional structure of nagari, filling positions and terms of office of nagari captains, in the administration of nagari government based on customary law and nagari institutions consisting of: a) Nagari Traditional Meeting; b) Nagari Government; c) Nagari Customary Court (Bukhari, 2021).

Furthermore, in the Regional Regulation of West Sumatra Province Number 7 of 2018 Article 6 Paragraph (1) states that in each nagari a Nagari Traditional Council (KAN) is formed as the highest deliberative institution in administering the Nagari Government. In each nagari, the Kerapatan Adat Nagari (KAN) was formed as a deliberative institution in the administration of the nagari government, whose membership consisted of representatives of ninik mamak and religious ulama elements, cadiaq clever elements, bundo kanduang elements, and parik paga elements in the nagari (Prasna, 2025).

Therefore, the Nagari Traditional Council (KAN) has a very important position in the administration of the nagari government. The Nagari Traditional Meeting (KAN) is chaired by a chairman and assisted by 2 (two) deputy chairmen who are appointed or elected from and by the members according to the provisions of the Nagari village customs. Formation, election or appointment of members, chairman and deputy chairman. Nagari Traditional Density (KAN). regulated by district/city regional regulations in accordance with the Salangka Nagari customs. In each nagari, the Kerapatan Adat Nagari (KAN) forms the nagari customary court as an institution for resolving community disputes in the nagari according to the nagari's customs (Yarni et al., 2024). Before a dispute is resolved by the nagari customary court, it must first be resolved at the family, paruik, clan and/or tribal level using bajanjang naiak batago descend.

The duties of the Nagari Traditional Meeting (KAN) are as follows:

1. Supervise the administration of the nagari government by the nagari ship;
2. Develop nagari regulations together with the nagari ship;
3. Discuss and agree on draft nagari regulations regarding the revenue budget and nagari shopping (Syafril et al., 2021).

Meanwhile, the authority of the Nagari Traditional Council (KAN) is as follows:

1. Selecting and appointing nagari captains by deliberation and consensus;
2. Channeling the aspirations of the nagari community;
3. Supervise the implementation of nagari customs and culture;
4. Ask the nagari government implementers to be accountable to the nagari vessel;
5. Preserve traditional and cultural values according to the Salangka Nagari customs (Kurnia et al., 2024).

The Minangkabau people live by the philosophy "Adat Basandi Syarak, Syarak Basandi Kitabullah," which means that their customs are based on Islamic teachings, making religion the foundation and guide for daily behavior. This principle, expressed in the phrase Syarak Mangato, Adat Mamakai, reflects the inseparable unity between Minangkabau customs and Islam. For example, Islam forbids marriage between close blood relatives, and similarly, Minangkabau customs prohibit marriage between members of the same tribe who share the same lineage. This alignment shows that Minangkabau identity is deeply intertwined with Islam, to the extent that being Minang inherently means upholding Islamic values.

Based on the background described above, the main problems in this study can be formulated as follows: first, what are the consequences of the authority of the Nagari Traditional Council (KAN) after the enactment of West Sumatra Province Regional Regulation Number 7 of 2018 concerning Nagari in West Sumatra Province; and second, what are the legal impacts of the supervisory authority held by the Nagari Traditional Council in overseeing the implementation of customs and culture within the Nagari community

2. Research Method

This research employs a normative juridical method, categorized as library-based legal research, where law is treated as a system of norms that serves as the foundation for analyzing legal phenomena from the perspective of *das sollen* (what ought to be). The normative system under review comprises legal principles, statutory regulations, institutional decisions, agreements, and scholarly doctrines. The central object of this study is the structure of legal norms that underpins the authority and supervisory role of the Kerapatan Adat Nagari (KAN) in implementing Nagari customs and culture. To guide the analysis, this research adopts a narrative legal interpretation framework consisting of three stages: (1) identifying relevant legal norms from primary and secondary sources; (2) interpreting those norms in light of legal principles, contextual statutory

intent, and doctrinal positions; and (3) evaluating their consistency and implications for legal practice, particularly in relation to legal pluralism and customary law recognition (Irwansyah, 2020).

Primary legal sources include the 1945 Constitution of the Republic of Indonesia, Law No. 23 of 2014 on Regional Government, Law No. 6 of 2014 on Villages, and most importantly, West Sumatra Regional Regulation No. 7 of 2018 on Nagari. The selection of Regulation No. 7/2018 is based on its specific legal role in redefining the institutional framework and functional authority of traditional Nagari institutions in West Sumatra. It serves as the cornerstone for understanding how local government and customary institutions interact under a formal legal regime. Secondary legal materials include scholarly books, journal articles, institutional documents, and other academic resources related to the legal position and authority of KAN. Data collection relies on document analysis, involving systematic examination of relevant legal texts and literature. The materials are analyzed qualitatively, with emphasis on interpreting the legal norms embedded in statutory regulations and customary practices recognized in West Sumatran society. Through descriptive-normative synthesis, the research seeks to explain and evaluate the implications of KAN's supervisory authority in maintaining and regulating Nagari customs and cultural practices (Purwati, 2020).

3. Results and Discussion

Overview of Nagari Traditional Density (KAN)

In Article 1 Number 6 of West Sumatra Provincial Regulation Number 7 of 2018, it is explained that the Nagari Traditional Council (KAN) is an institution which is the embodiment of the highest representative deliberation in the administration of Nagari Government whose membership consists of representatives of Ninik Mamak and elements of Nagari ulama scholars, Cadiak Pandai elements, elements of bundo kanduang, and elements of parik paga in the relevant nagari in accordance with the Salingka Nagari Custom Regarding the functions and duties of the Nagari Customary Meeting, it is contained in Article 7 Paragraph (1) letter b and letter c of West Sumatra Province Regional Regulation Number 13 of 1983 in Article 4 of the Decree of the Governor of the Head of the Regional Head of West Sumatra Number 189-104-1991 regarding disputes or types of cases completed by the Nagari Traditional Council (KAN) are as follows:

1. Disputes regarding title (sako);
2. Disputes regarding property (pusako);
3. Other disputes (Asrinaldi, 2022).

The principle of resolving customary disputes emphasizes amicable settlement through deliberation and consensus among the parties involved, in line with the Minangkabau saying "bajanjang naik, batanggo turun" under the guidance of the ninik mamak. When such efforts fail, the dispute is brought

before the Nagari Customary Council (Kerapatan Adat Nagari or KAN), facilitated by the *ninik mamak*, who act as mediators in the customary court process. KAN functions as the highest traditional authority in the nagari, comprising respected community elders known as *ninik mamak*. This institution has existed since the formation of the nagari, although it may be known by different names depending on local customs. Its role is vital—not only in overseeing, preserving, and regulating the use of customary land, but also in resolving conflicts related to tribal or communal land ownership (Putra, 2023).

In carrying out its functions, the nagari government is supported by the Kerapatan Adat Nagari (KAN), which serves as the highest deliberative representative body within the administrative structure. KAN comprises members representing *ninik mamak*, religious scholars, *cadiak pandai*, *bundo kanduang*, and *parik paga* elements, all drawn from the respective nagari community in accordance with traditional customs (*salahka nagari*). This council is led by a chairperson, assisted by two deputies, all of whom are selected and appointed from among the members, following the customary rules of the nagari (Alfiander et al., 2022).

The Nagari Traditional Council (KAN) has the following authority:

1. Selecting and appointing nagari captains by deliberation and consensus;
2. Channeling the aspirations of the nagari community;
3. Supervise the implementation of nagari customs and culture;
4. Hold the government implementers accountable to the nagari ship;
5. Preserve traditional and cultural values according to the Salangka Nagari customs.

In Article 1 number 10 of West Sumatra Province Regional Regulation Number 7 of 2018 concerning Nagari states that local customs are the customs and customs that apply in the life of the Nagari community, furthermore in Article 1 number 11 states that the Salangka Nagari Customs are customs that apply in a Nagari in accordance with generally accepted customary principles or the long stem tradition and inherited from generation to generation in Minangkabau. The direct involvement of *bundo kanduang* in Kerapatan Adat Nagari (KAN) is a form of secularization of Minangkabau traditional values in adapting them to the modern model of representative democracy. The representation of women in representative institutions, as a reflection of equal rights in modern democracy, is different from Minangkabau cultural values (Akmal & Malau, 2020).

The female element in Minangkabau has an invisible, but decisive role. Meanwhile, involvement as part of the Nagari Traditional Meeting (KAN) changes the model of influence in decision making. The new model of democracy offered in regional regulations and also several nagari regional regulations established after the New Order era did not fully accommodate the Minangkabau democratic values described by the *petatah-petitih*. This is allegedly influenced by international values that developed during the transnationalization of law,

which initially influenced the electoral model and the percentage of women's representation in national legislative institutions (Indraddin et al., 2024).

Overview of Regional Government Administration

In Chapter VII Article 57 and Article 58 of Law Number 23 of 2014 concerning Regional Government, the first part regulates the administration of regional government. Article 57 explains that the administration of provincial and district/city regional government consists of regional heads and DPRD assisted by regional apparatus. Regional Government Administrators in administering Regional Government are guided by the principles of state government administration which consist of:

1. Legal certainty;
2. Orderly state administration;
3. Public interest;
4. Openness;
5. Proportionality;
6. Professionalism;
7. Accountability;
8. Efficiency;
9. Effectiveness; And
10. Justice (Talitha et al., 2020).

The meaning of this principle can be seen in the explanation of Law Number 23 of 2014 concerning Regional Government, namely:

1. Legal certainty is a principle in a legal state that prioritizes the basic provisions of laws and regulations and justice in every state administration policy;
2. Orderly state administration is a principle that is the basis for order, harmony and balance in controlling state administration;
3. The principle of public interest is a principle that prioritizes general welfare in an aspirational, accommodative and selective manner;
4. The principle of openness is a principle that opens up to the public's right to obtain correct, honest and non-discriminatory information about state administration while still paying attention to the protection of personal, group human rights and state secrets;
5. The principle of proportionality is a principle that prioritizes the balance of rights and
6. obligations in administering the State;
7. The principle of professionalism is a principle that prioritizes expertise based on a code of ethics and statutory provisions.
8. The principle of accountability is a principle that determines that every activity and final result of state administration activities must be accountable to the community or people as the holder of the highest sovereignty of the state in accordance with the provisions of statutory regulations.

9. The principle of effectiveness is a principle that is oriented towards goals that are effective and powerful use.
10. The principle of justice is that every action in state administration must reflect proportional justice for every citizen (Tauda et al., 2022).

According to the provisions in Article 13 paragraph (3) of Law Number 23 of 2014 concerning Regional Government, the authority of the provincial level Regional Government is as follows:

1. Government affairs located across districts/cities
2. Government Affairs whose user's cross regency/city areas
3. Government affairs whose benefits or negative impacts cross regions Regency/city
4. Government affairs where the use of resources is more efficient if carried out by the province (Badary, 2020).

The granting of regional governments authority to administer their government is carried out through a process called decentralization to autonomous regions or known as regional autonomy. Decentralization has two forms, namely political and administrative. Political decentralization, namely the authority to make decisions and exercise certain control over resources given to local and regional governments. Administrative decentralization is a delegation of implementation authority given to central officials at the local level. Its authority ranges from setting regulations to making decisions substantial.

Legal Implications and Institutional Authority of the Nagari Traditional Council (KAN) under West Sumatra Regional Regulation No. 7 of 2018

The promulgation of West Sumatra Provincial Regulation Number 7 of 2018 concerning Nagari has generated substantial legal implications for the authority of the Kerapatan Adat Nagari (KAN). As stipulated in Article 5, the institutional framework of the Nagari is formally composed of three core bodies: KAN, the Nagari Government, and the Nagari Customary Court. This legal acknowledgment affirms KAN's position as a pivotal entity within the governance structure, entrusted with deliberative functions and the mandate to uphold customary values in accordance with local adat norms. The regulation not only reinforces KAN's role as a custodian of cultural heritage but also legitimizes its involvement in local administration and customary dispute resolution. As a result, KAN now possesses both sociocultural relevance and juridical authority, granting it enhanced legitimacy in the development, enforcement, and supervision of indigenous legal traditions within the Nagari system (Azwar et al., 2020).

Article 6 of West Sumatra Provincial Regulation No. 7 of 2018 underscores the strategic position of the Kerapatan Adat Nagari (KAN) as the highest deliberative body within the Nagari governance framework. Each Nagari is required to establish this institution as a forum for collective decision-making based on local customs and traditional values. The composition of KAN

embodies the communal authority and cultural wisdom of the Nagari, comprising representatives from key societal groups, including *Niniak Mamak* (clan elders), *Alim Ulama* (religious figures), *Cadiak Pandai* (intellectuals), *Bundo Kanduang* (female leaders), and *Parik Paga* (community guardians). This inclusive structure ensures that the values and identity of the Salingka Nagari are comprehensively safeguarded and effectively articulated in governance practices (Indra, 2020).

Furthermore, the organizational structure of the *Kerapatan Adat Nagari* (KAN) is shaped by customary norms that prioritize democratic values and participatory mechanisms in the selection of leadership. The institution is headed by a chairperson, supported by two deputies, all of whom are appointed or elected from among its members in accordance with local adat regulations. This system ensures the legitimacy and accountability of leadership within the framework of customary law. The composition, appointment process, and responsibilities of KAN leaders and members are further governed by regional regulations at the district or municipal level, which are tailored to reflect the distinct socio-cultural identity of each Nagari. This regulatory synergy between statutory instruments and living customary traditions exemplifies a legal pluralism approach, reinforcing the function of traditional institutions in local governance and cultural continuity.

In parallel, the establishment of the Nagari Customary, as enshrined in Article 15 of West Sumatra Provincial Regulation Number 7 of 2018, formalizes indigenous mechanisms for dispute resolution within the administrative framework of the Nagari. Instituted by the KAN, this customary court serves as the highest forum for resolving internal community conflicts in accordance with Salingka Nagari traditions. Its institutionalization reflects a commitment to legal pluralism, acknowledging the enduring relevance of Minangkabau customary law in both social and normative practices. Prior to escalation to this court, however, the regulation requires that disputes be addressed through sequential customary stages through a process known as *bajanjang naiak, batanggo turun*, which emphasizes hierarchical, restorative, and consensus-oriented conflict resolution.

The Nagari Customary Court carries distinct and culturally embedded responsibilities. Primarily, it adjudicates disputes concerning *sako* (traditional leadership titles) and *pusako* (inherited property), which frequently generate conflict within the Minangkabau matrilineal system. Additionally, it addresses civil matters grounded in customary practices through consensus-based deliberations within the Nagari Traditional Council. The outcomes of these proceedings, formalized as *kato putuih* (binding decisions), serve as authoritative references in the pursuit of communal justice. Furthermore, the court is vested with the power to enforce customary sanctions on individuals who contravene adat norms, thereby upholding social order and reinforcing adherence to traditional values. Through these roles, the institution not only strengthens community autonomy in administering adat-based justice but also contributes to

the integration of indigenous legal traditions within the broader framework of national law, promoting legal pluralism and regional harmony.

Articles 16 and 17 of West Sumatra Provincial Regulation Number 7 of 2018 provide a comprehensive legal framework for the institutionalization and governance of the Nagari Customary Court (*Pengadilan Adat Nagari*), reinforcing its role within the broader system of adat-based administration. Article 16 stipulates the court's organizational structure, which comprises a chairperson, *a manti* (customary officer), and several customary judges, each entrusted with resolving disputes in accordance with Salingka Nagari traditions. The procedural aspects concerning the composition, appointment, dismissal, tenure, and financial support of these judicial actors are delegated to Regency or City Regional Regulations, thereby allowing flexibility and responsiveness to local customary contexts. Complementing this, Article 17 assigns the Governor of West Sumatra the responsibility of providing guidance and general oversight in the implementation of Nagari governance, particularly in relation to customary law. This framework reflects a legal pluralism approach that balances the autonomy of indigenous institutions with the supervisory role of the provincial government, aiming to harmonize customary governance with the formal administrative system.

The provisions of Article 18 of West Sumatra Provincial Regulation Number 7 of 2018 emphasize the importance of institutional development in strengthening Nagari governance. The development efforts are mandated to be carried out by the Regional Apparatus Organizations of the West Sumatra Provincial Government, based on their respective main duties and functions. This development, referred to as "coaching," focuses on capacity building for Nagari institutions, aiming to enhance their ability to perform their administrative, social, and cultural roles effectively. Such coaching includes training, facilitation, and technical assistance to ensure that customary and governmental functions within the Nagari can operate in harmony and in accordance with legal and cultural standards.

Article 19 further stipulates the authority of the Governor and Regents/Mayors to establish a Nagari Development and Empowerment Council at both provincial and regency/municipal levels. This council is conceived as a collaborative platform that integrates diverse stakeholders from traditional leadership, academia, and civil society. Its composition includes representatives of *Niniak Mamak* (customary elders), *Alim Ulama* (religious scholars), *Cadiak Pandai* (intellectuals), higher education institutions, and non-governmental organizations, thereby embodying a multi-sectoral framework for advancing Nagari development. Functioning as a strategic forum, the council is tasked with planning, monitoring, and facilitating initiatives aimed at institutional strengthening, ensuring that indigenous knowledge systems, scholarly perspectives, and civic engagement collectively inform policies that are both sustainable and culturally embedded.

Article 20 of West Sumatra Provincial Regulation Number 7 of 2018 mandates the Regency/City Government, through the relevant Regional Apparatus Organizations, to regularly report on the implementation of Nagari governance to the Governor. This reporting obligation serves as a mechanism of accountability and supervision to ensure that the administration and development of the Nagari align with both customary law and governmental regulations. The implementation report must be submitted periodically, with a minimum frequency of once per year, enabling the provincial government to monitor progress, identify challenges, and provide necessary support or policy adjustments to strengthen the performance and sustainability of Nagari institutions.

4. Conclusion

The enactment of West Sumatra Provincial Regulation Number 7 of 2018 has considerably enhanced the authority of the Nagari Traditional Council (Kerapatan Adat Nagari or KAN), particularly in the domain of customary dispute resolution. As outlined in Article 15, the KAN is authorized to establish a Nagari Customary Court (Pengadilan Adat Nagari), which functions as the highest institution for adjudicating internal disputes based on Salingka Nagari customs. This court follows a layered conflict resolution mechanism known as *bajanjang naiak, batanggo turun*, wherein disputes must first be addressed at the levels of family, *paruik* (matrilineal lineage), clan, and tribal institutions before escalation to the court. The court handles matters involving *sako* (customary titles) and *pusako* (communal inheritance), resolving them through peaceful means and consensus (*kato putuih*) within the KAN. It also has the authority to impose customary sanctions for violations of adat norms. This institutionalization affirms the relevance and resilience of indigenous legal traditions within the broader legal-administrative system of the region.

In addition to its adjudicative role, the KAN operates under a framework of provincial oversight, as stipulated in Article 17, which assigns the Governor of West Sumatra the responsibility for providing guidance and supervision over Nagari governance rooted in customary law. This arrangement reflects a legal pluralism approach that harmonizes traditional authority with modern regulatory standards, ensuring both cultural preservation and institutional accountability. From a practical perspective, the sustainability of this governance model necessitates capacity-building efforts, particularly through targeted training programs for Nagari officials and KAN members. Such programs should address customary legal procedures, conflict resolution skills, documentation, and the integration of adat with formal legal norms. Furthermore, future research should include empirical evaluations of the effectiveness of the KAN and the Nagari Customary Court, focusing on their impact on dispute resolution, community trust, and access to justice. Comparative studies across various Nagari would be particularly valuable in identifying best practices and

informing evidence-based policy development at both the regional and national levels.

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